

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:06-CV-00505-CB-C
)	
KENNETH M. STABLER, et al.,)	
)	
Defendants.)	

ORDER OF SALE FOR THE JOACHIM PROPERTY

Upon consideration of the parties' Consent Motion for Order To Sell Joachim Property, it is hereby **ORDERED** that:

1. The United States has valid and subsisting tax liens against defendant, Kenneth M. Stabler, individually and as nominee of Stabler Company, Inc., in the sum of \$579,250, plus interest and any statutory additions thereon, and that the tax liens against Kenneth M. Stabler can be foreclosed and the real property described in paragraph 2, below, be sold in its entirety pursuant to Section 2001 of the United States Code, Title 28.

2. The federal tax liens encumber two parcels of real property that are located in Mobile County, Alabama and bear the street address of 260 N. Joachim Street, Mobile, Alabama 36603 ("Joachim property"), which is more particularly described, as follows:

Parcel A:

That certain lot of land in the City of Mobile, Alabama, known as Lot Number 11, in Square 236, of the Toulmin Tract, according to a map recorded in Deed Book "M", Page 358, and more particularly described as commencing at the Southeast corner of Congress

and Joachim Streets and running thence Southwardly on the East line of Joachim Street 50 feet, thence Eastwardly and parallel with Congress Street 100 feet, thence Northwardly and parallel with Joachim Street 50 feet to the South line of Congress Street thence Westwardly along the South line of Congress Street 100 feet to the place of beginning.

Parcel B:

Lot 12 in Square 236 more particularly described as commencing at a point on the East Line of Joachim Street 50 feet South of the Southeast corner of Congress and Joachim Streets, thence running Southwardly on said East line 50 feet to a point, thence Eastwardly and parallel with Congress Street 100 feet to a point, being the Southwest corner of Lot No. 10 thence Northwardly on the West line of Lot 10 and parallel with Joachim Street 50 feet to a point, being the Southeast corner of Lot No. 11, thence Westwardly along the South line of Lot 11 and parallel with Congress Street 100 feet to the place of beginning. Measurements being more or less.

3. The Property Appraisal and Liquidation Specialists (“PALS”) of the Internal Revenue Service (“IRS”) is hereby authorized under 28 U.S.C. §§ 2001 and 2002, to offer for sale at public auction, the real property described in paragraph 2, above, with any improvements, buildings and appurtenances, thereunto pertaining.

4. That the public auction referred to in paragraph 3, above, shall be held either on the premises themselves or at another location in Mobile County, or at the Mobile County Courthouse, in accordance with the provisions of 28 U.S.C. § 2001, the times thereof to be announced by the IRS; after the respective property is advertised once a week for four consecutive weeks preceding the date fixed for its sale in a daily newspaper of general circulation in Mobile County, and by any other notice that the IRS in its discretion may deem appropriate.

5. Any rights, title, liens, claims or interests in the Joachim property described in paragraph 2, above, of all parties to this action and any of their successors, heirs or assigns shall

be discharged upon sale of the property and confirmation of the sale, as described in paragraph 3, above, and 14, below.

6. The minimum bid for the property will be set by the IRS. If the minimum bid is not met or exceeded, the IRS may, without further permission of this Court, and under the terms and conditions of this Decree of Foreclosure, hold a new public sale and reduce the minimum bid, or alternatively, sell to the second highest bidder.

7. The successful bidder(s) shall be required to deposit with the IRS, a minimum of twenty percent of the deposit of his or her bid by certified check, made payable to the United States District Court for the Southern District of Alabama, or cash deposit at the time of sale. Before being permitted to bid at the sale, bidders shall display to the IRS proof that they are able to comply with this requirement. No bids will be received from any person(s) who have not presented proof that, if they are the successful bidder(s), they can make the deposit required by this order of sale.

8. The balance of the purchase price for the Joachim property shall be tendered to the IRS PALS by the successful bidder within thirty (30) days following the date of sale in the form of a certified check payable to the United States District Court for the Southern District of Alabama. In the event that the successful bidder defaults in any deposit requirement or in payment of the balance of the purchase price, the deposit made by the successful bidder shall be forfeited and applied as part of the proceeds of sale, including but not limited to covering any expenses of sale, and the real property shall be re-offered for sale in the same manner as provided

herein for the initial sale, or alternatively, be offered to the second highest bidder in accordance with the provisions of paragraph 6, above.

9. Pending the sale of the Joachim property, the IRS is authorized to have free access to the premises and to take any and all actions necessary to preserve the premises, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the property, until the deed to the property is delivered to the ultimate purchaser of the property.

10. The sale is made pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

11. Until the Joachim property is sold, defendant, Kenneth M. Stabler, shall take all reasonable steps necessary to preserve the property (including all buildings, improvements, fixtures and appurtenances on the property) in its current condition including, without limitation, maintaining fire and casualty insurance policies on the property and provide proof of such when requested by PALS. Mr. Stabler shall neither commit waste against the Joachim property nor cause or permit anyone else to do so. Mr. Stabler shall neither do anything that tends to reduce the value or marketability of the Joachim property nor cause or permit anyone else to do so. Mr. Stabler shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the Joachim property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall he cause or permit anyone else to do so.

12. All persons occupying the Joachim property shall leave and vacate the property permanently within thirty (30) days of entry of this order or the date on which a copy of the order is delivered to the defendants, whichever is later, taking with them their personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). Further, all persons occupying the Joachim property shall turn over the keys to the property to the IRS PALS and provide proof of current insurance within thirty (30) days of the date this order is entered or the date on which a copy of it is delivered to the defendants, whichever is later. If any person occupying the Joachim property fails or refuses to leave and vacate the property by the time specified in this order, the IRS is authorized to coordinate with the United States Marshal Service to take all actions that are reasonably necessary to bring about the ejectment of those persons. If any person fails or refuses to remove his or her personal property from the Joachim property by the time specified herein, the personal property remaining on the property thereafter is deemed forfeited and abandoned; and, the IRS is authorized to remove the personal property and dispose of it in any manner they see fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale with the balance being distributed as described in paragraph 16, below.

13. The sale of the property shall be subject to confirmation by this Court, and upon confirmation, the IRS shall execute and deliver its deed, conveying the Joachim property to the successful purchaser.

14. When the sale is confirmed by this Court, the Register of Deeds of Mobile County, Mobile, Alabama shall cause transfer of the Joachim property to be reflected upon that county's register of title.

15. A successful third-party bidder at the sale shall pay, in addition to the amount of the bid, any documentary stamps and Clerk's registry fees as provided by law.

16. After the sale is confirmed by this Court, the proceeds shall be distributed, as follows:

- (a)** First, to the IRS to cover expenses of the sale, including any expenses incurred to secure or maintain the Joachim property pending sale and confirmation of the sale by the Court;
- (b)** Second, to Mobile County, Alabama for any matured and unpaid real property taxes for the Joachim property;
- (c)** Third, to Chase Home Finance LLC to pay off its mortgage balance, excluding any amount of such balance attributable to attorney's fees;
- (d)** Fourth, to the United States to be applied in payment of the unpaid federal income tax assessments of Kenneth M. Stabler for the tax years 1999, 2000 and 2001 and Stabler Company, Inc. for the tax years 1995, 1998, 1999 and 2000, unpaid federal employment tax assessment of Stabler Company, Inc. for the tax period ended December 31, 1999, and unpaid civil penalty assessment of Stabler Company, Inc. for the tax year 2000; and

- (e) Fifth, any funds remaining thereafter shall be distributed to Kenneth M. Stabler.

17. Upon sale of the Joachim property, the respective liens and claims of the parties to this action shall attach to the sales proceeds to the same extent and in the same order of priority as such liens and claims attached to the property and as is set forth in paragraph 16, above.

18. After confirmation of the sale of the Joachim property, this Court shall enter an appropriate order of distribution directing the Clerk of the Court to distribute the balance of the sale proceeds in the manner set forth in paragraph 16, above.

19. The Court shall retain jurisdiction over this cause for purpose of entering all further orders as may be appropriate, including without limitation, deficiency and contempt of court judgments.

DONE and **ORDERED** this 12th day of August, 2008.

s/Charles R. Butler, Jr.
Senior United States District Judge